

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAURICE PLUMMER,

Defendant.

2:05-cr-336

MEMORANDUM ORDER

Now pending before the Court are Defendant's MOTION IN LIMINE REGARDING FIREARM (*Document No. 131*) and the GOVERNMENT'S MOTION IN LIMINE (*Document No. 132*). Because jury selection is scheduled to commence in two days, on November 8, 2007, and the issues are relatively straightforward, the Court is ruling on the motions prior to receiving responses to either motion.

Defendant is facing multiple charges, which the Court has severed into three trials, to be held sequentially. In the first trial (the "drug trial"), the Government charges Plummer with conspiracy to distribute and possess with intent to distribute crack cocaine. The second and third trials involve gun charges. Defendant requests that the Court preclude reference to a firearm during the drug trial. The drugs were discovered in a residence in Homewood, while a gun was recovered later that evening from a car in the Hill District. For the reasons set forth in this Court's Order granting severance of the trials, the Defendant's MOTION IN LIMINE REGARDING FIREARM (*Document No. 131*) is **GRANTED**.

The Government seeks to exclude any mention of an incident involving police officer Joseph Simonovic's conduct at a music concert. The incident occurred in August 2007, long after the events at issue, and does not implicate officer Simonovic's ability to testify truthfully. The Court concludes that the incident at the concert is not relevant, and that any potential relevance is substantially outweighed by the danger of unfair prejudice, confusion of the issues,

misleading the jury, undue delay and waste of time. *See* Federal Rules of Evidence 401, 403. Accordingly, the GOVERNMENT'S MOTION IN LIMINE (*Document No. 132*) is **GRANTED.**

SO ORDERED this 6th day of November, 2007.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

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